

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DAVID PAYO,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 08-1147
	)	Judge Ambrose
	)	Magistrate Judge Bissoon
RAYMOND RUSTIN, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**ORDER**

Plaintiff seeks to compel admissions from Defendant Patterson (Doc. 58), and asserts that Patterson's responses to Requests 1, 2 and 8 are "evasive." Patterson admitted in part and denied in part in each instance, and explained that he was unable to determine Plaintiff's meaning in using the terms "back injury" and "numerous times" in the Requests (Doc. 59-3). These are fair qualifications of Defendant Patterson's responses, and are not evasive.

Defendant Patterson also did not respond to Request 6 because he could not understand the Request. The Court agrees that the Request is worded so awkwardly that any response would require the Defendant to guess at its meaning.

Finally, Plaintiff seeks to compel admissions to Requests 10 and 14 on the basis that Patterson denied these Requests but failed to provide an explanation for the denials. Requests for Admission should not be employed in discovery unless they can be admitted or denied **without** explanation. United Coal Cos. v. Powell Constr. Co., 839 F.2d 958, 967 (3d Cir.1988).

AND NOW, this 3<sup>rd</sup> day of December, 2009,

IT IS HEREBY ORDERED that Plaintiff's Motion to Compel Admissions (Doc. 58) is DENIED.

IT IS FURTHER ORDERED that the parties are allowed ten (10) days from this date to appeal this order to a district judge pursuant to Rule 72.C.2 of the Local Rules for Magistrates.

Failure to appeal within ten (10) days may constitute waiver of the right to appeal.

s/Cathy Bissoon  
CATHY BISSOON  
UNITED STATE MAGISTRATE JUDGE

**Cc:**  
**DAVID PAYO**  
HS7147  
1 Kelly Drive  
Coal Township, PA 17866 9330